

February 14, 2007

Via Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WT Docket Nos. 96-86 and 06-169
Written Ex Parte

Dear Ms. Dortch:

Alcatel-Lucent has recently conducted a series of *ex parte* meetings at the Commission during which it has advocated consolidation of the public safety 700 MHz narrowband spectrum and creation of a 6 MHz broadband-only block in the 700 MHz public safety allocation.¹ Alcatel-Lucent alleges that there is consensus in favor of a 6+6 700 MHz public safety band plan.² The record does not support this contention. While there is indeed broad consensus in the record in support of the immediate adoption of the Broadband Optimization Plan ("BOP"), there is little to no support in the record in favor of adoption of the 6+6 700 MHz public safety band plan set forth by Alcatel-Lucent, and no public safety entity has supported the 6+6 plan. The purpose of this letter is to ensure that the Commission is aware of this fact, and to set forth the major differences that separate the BOP, which is supported by the public safety community, from the 6+6 band plan described by Alcatel-Lucent, which has received no support from public safety.

The assertion by Alcatel-Lucent that there is consensus in favor of a 6+6 band plan may be inadvertent as Alcatel-Lucent has not opposed the BOP on its merits, and the 6+6 band plan is not central to Alcatel-Lucent's primary argument that public safety should be limited to broadband in the non-narrowband allocation. However, while it is true that the 6+6 band plan and the Broadband Optimization Plan ("BOP") both would consolidate the public safety narrowband spectrum, there are major differences between the two plans and the disparity in levels of support for the two plans reflects those differences. There is broad support for the

¹ See, e.g., Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Michael McMenamin, Global Government & Public Affairs, Alcatel-Lucent, WT Docket Nos. 96-86 and 06-169 (Jan. 26, 2007). Alcatel-Lucent also has sought the Commission's specification of 1.25 MHz as a basic broadband channel size within the 700 MHz Public Safety spectrum.

² See *id.* at 1.

BOP, initially proposed by Access Spectrum, Columbia Capital, Pegasus Communications and Intel Corporation in WT Docket No. 96-86. In particular, the public safety community overwhelmingly supports the BOP, as do a number of significant commercial entities.³ By contrast, Alcatel-Lucent appears to be one of the few advocates, if not the sole advocate, for a 6+6 band plan, and no public safety entity has supported the 6+6 plan.

More specifically, the BOP (as shown in Attachment A):

- Includes an additional 3 MHz of spectrum nationwide for the public safety community;
- Enables Public Safety to manage its own guard bands;
- Places public safety broadband operations directly adjacent to the commercial broadband operations, thereby promoting public-private partnerships;
- Resolves the Canadian border, equipment reprogramming, and spectrum planning database issues that the public safety community insisted must be resolved before public safety could support consolidation of the narrowband allocation;⁴

³ In addition to the BOP's original proponents, the entities supporting the Broadband Optimization Plan include: the National Public Safety Telecommunications Coalition (the members of which are the American Association of State Highway Transportation Officials, American Radio Relay League, American Red Cross, Association of Public-Safety Communications Officials-International, Association of Fish & Wildlife Agencies, Forestry Conservation Communications Association, International Association of Chiefs of Police, International Association of Emergency Managers, International Association of Fire Chiefs, International Municipal Signal Association, National Association of State Emergency Medical Services Officials, National Association of State Foresters, National Association of State Telecommunications Directors), Major Cities Chiefs Association, Major County Sheriffs Association, the National Sheriffs Association, the New York State Office for Technology, Motorola (supports a slightly modified version of the BOP), Northrop Grumman, Arcadian Networks, the WiMAX Forum and the following 700 MHz Regional Planning Committees: Region 4 (Arkansas), Region 5 (Southern California), Region 7 (Colorado), Region 8 (Metropolitan New York City Area), Region 9 (Florida), Region 10 (Georgia), Region 11 (Hawaii), Region 13 (Illinois except Southern Lake Michigan counties), Region 14 (Indiana except Southern Lake Michigan counties), Region 17 (Kentucky), Region 24 (Missouri), Region 26 (Nebraska), Region 30 (New York - Albany area), Region 32 (North Dakota), Region 33 (Ohio), Region 35 (Oregon), Region 39 (Tennessee), Region 45 (Wisconsin except Southern Lake Michigan counties), Region 54 (Chicago - Southern Lake Michigan counties) and Region 55 (New York - Buffalo).

⁴ See, e.g., Comments of the National Public Safety Telecommunications Council, WT Docket Nos. 06-169 and 96-86, at 7 (Oct. 23, 2006). The first Report of the 700 MHz Technical Working Group, transmitted via letter from Ruth Milkman, Counsel for Access Spectrum, LLC and Kathleen Wallman, Adviser to Pegasus Communications Corp., WT Docket Nos. 06-169 and 96-86 (Oct. 23, 2006) ("First Report of the 700 MHz Technical Working Group"), addressed

- Has undergone a thorough technical review resulting in the conclusion that there are no technical issues remaining that would prevent adoption of the BOP by the FCC,⁵ clearing the way for immediate adoption of the BOP and enabling Public Safety's deployment of broadband technologies; and
- Results in an additional 3 MHz of spectrum nationwide for commercial broadband use (a 10% increase in capacity) and reduces the amount of spectrum dedicated to "guard bands," and therefore under-utilized, from 10 MHz to 3 MHz.

By contrast, the 6+6 band plan (as shown in Attachment A):

- Does not include any additional spectrum for Public Safety, and would result in less spectrum available for public safety broadband, since a portion of the 6 MHz would have to be used for an internal guard band;
- Continues to use commercial guard bands to protect public safety operations;
- Places a commercial guard band between the public safety broadband allocation and the adjacent commercial allocation, thereby making public-private partnerships far more difficult;
- Fails to address the Canadian border, equipment reprogramming and spectrum planning database issues identified by the public safety community, although

the issue related to the Canadian border agreement. The BOP permits U.S. public safety narrowband operations to deploy in a way that would comply with both the current band plan and the future band plan, while allowing use of the new public safety broadband configuration nationwide, because the BOP leaves 1 MHz of paired narrowband spectrum in television Channels 63 and 68 (769-770 and 799-800 MHz). *See* First Report of the 700 MHz Technical Working Group at 10-12. The BOP would add 3 MHz of spectrum to the public safety allocation, and that 3 MHz plays a critical role in ensuring the U.S./Canada allocation "splits" can be maintained. The additional 3 MHz also enables border states and regions to incorporate broadband into both their short-term and long-term plans, despite the fact that in certain regions, the United States public safety entities have priority on only about 30% of the spectrum, under the U.S.-Canada agreement. In upper New York State, for example, Canada has priority on about 70% of the spectrum. For these reasons, in addition to the general benefits that the BOP provides, New York State, which is in the midst of deploying a comprehensive system, strongly supports the BOP. Access Spectrum and Pegasus solved the reprogramming and spectrum planning database (CAPRAD) issues by committing to fund the expenses related to converting existing 700 MHz narrowband systems and updating CAPRAD, contingent on the adoption of the BOP. *See* Comments of Access Spectrum, LLC and Pegasus Communications Corporation, WT Docket Nos. 06-169 and 96-86, at 16-17 (Oct. 23, 2006).

⁵ *See* Second Report of the 700 MHz Technical Working Group, transmitted via letter from Ruth Milkman, Counsel for Access Spectrum, LLC and Kathleen Wallman, Adviser to Pegasus Communications Corp., WT Docket Nos. 06-169 and 96-86 (Jan. 26, 2007) ("Second Report of the 700 MHz Technical Working Group").

resolution of these issues is a pre-condition of public safety support for the consolidation of the narrowband allocation;⁶

- Has undergone no technical review whatsoever, which is unsurprising, given that there is no support for the 6+6 plan from any public safety interests. Without such a technical review, it is impossible to know the effect of the 6+6 plan on previously-identified interference issues between public safety and commercial operations or what additional problems and difficulties are lurking in such a plan;⁷ and
- Results in unnecessary use of spectrum for under-utilized guard bands, creating significant inefficiencies in highly valued spectrum.

Alcatel-Lucent's focus may be on its own proposal to limit public safety to deploying broadband (rather than wideband), but by over-simplifying the BOP in support of such an argument, Alcatel-Lucent has, perhaps inadvertently, misstated what the consensus supports. We hope this letter has made it clear to the Commission that there are major differences between the BOP and the 6+6 band plan described by Alcatel-Lucent. The strength of the BOP and the significant work conducted by the Technical Working Group have generated strong support in the record from the public safety community for its adoption. By contrast, the record is devoid of any such support for the 6+6 band plan.

With the filing of the Second Report of the Technical Working Group, all technical issues related to the BOP have been addressed. The Commission should adopt the BOP immediately.

⁶ The 6+6 plan, by placing the entire narrowband allocation in Channels 64 and 69, nullifies the opportunity to enable U.S. public safety narrowband operations to deploy in a way that would comply with both the current band plan and the future band plan while allowing use of the new public safety broadband configuration nationwide. Further, a 6+6 plan would not provide the additional spectrum that is critical for the broadband needs of certain border states and regions (e.g., New York State). Finally, Access Spectrum and Pegasus are not willing to fund the system conversion or CAPRAD expenses related to the narrowband consolidation, nor relinquish their B Block licenses, unless the BOP is adopted in its entirety.

⁷ The experience of the Technical Working Group is instructive in this case. When Access Spectrum and Pegasus originally proposed the BOP, it was clear that there were benefits to the adoption of the BOP. As the Technical Working Group delved into the details, it became apparent that inter-modulation interference was a more serious concern than previously had been understood. A significant amount of testing and simulations were conducted and the Technical Working Group concluded that the BOP actually improved the interference protection for public safety operations, particularly for narrowband operations. It is unknown how the inter-modulation situation would change under the 6+6 plan and it is unknowable without a rigorous technical evaluation. This underscores the importance of a thorough technical review.

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record in the above-referenced proceeding.

Sincerely,

/s/ Ruth Milkman

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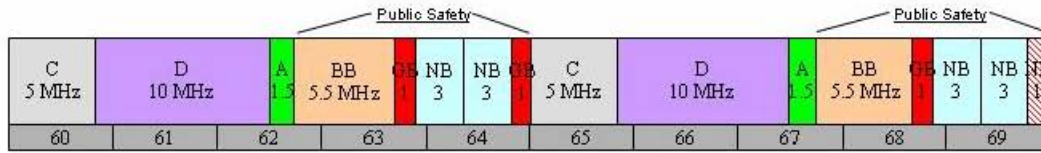
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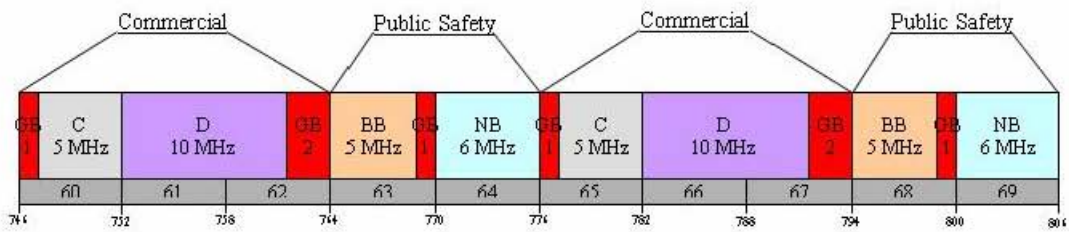
ATTACHMENT A

Broadband Optimization Plan (“BOP”)



BB=Broadband; WB=Wideband; NB=Narrowband; GB=Guard Band

“6+6” Plan



BB=Broadband; NB=Narrowband; GB=Guard Band